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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/294,630	04/19/1999	SHINJI UEBAYASHI	3815/76	6344

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EXAMINER

DUONG, DUC T

ART UNIT PAPER NUMBER

2663

DATE MAILED: 03/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/294,630

Applicant(s)

UEBAYASHI ET AL.

Examiner

Duc T. Duong

Art Unit

2663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 22-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22,23 and 29-31 is/are rejected.
- 7) ☒ Claim(s) 24-28 and 32-36 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Amendment***

1. In response to the amendment filed on January 8, 2003, claims 1-21 are canceled and claims 22-36 are pending.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 22, 23, 30, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Behtash et al (U.S. Patent 5,745,480) in view of Linquist et al (U.S. Patent 5,361,399).

Regarding to claims 22 and 30, Behtash discloses a base station that simultaneously performs one or more communications whose transmission rates are higher than or equal to a predetermined rate, and one or more communications whose transmission rates are lower than the predetermined rate with a plurality of mobile stations (Fig. 1 col. 3 lines 26-33), said base station comprising means 176 for checking whether transmission power of all communications performed simultaneously becomes greater than a predetermined first threshold value if the communication request is accepted (Fig. 3 col. 5 lines 1-7); and means 176 for restricting acceptance of the communication request, if the transmission power of all communications becomes greater than the first threshold value (Fig. 3 col. 5 lines 11-13).

Behtash fails to teach means for checking whether a communication request is made for a high speed communication.

However, Linquist discloses a communication system operable to transmit on high and low data rate with a base station controller (Fig. 2) for determining whether a high speed transmission or low speed transmission needs to place (Fig. 11b col. 17 lines 1-27).

Thus, it would have been obvious to one of ordinary skilled in the art, at the time of the invention, to includes a base station for checking whether a high speed transmission or low speed transmission as taught by Linquist in Behtash's system for operation at different frequency bandwidth.

Regarding to claims 23 and 31, Behtash discloses the means for restricting rejects the communication request, if the transmission power of all communications becomes greater than the first threshold value (Fig. 4 col. 5 lines 33-39).

4. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Behtash and Linquist as applied to claim 1 above, and further in view of Odenwalder et al (U.S. Patent 6,173,007 B1).

Regarding to claim 29, Behtash and Linquist discloses all the limitation with respect to claim 22, except for carrying out channel assignment of a combination of channels in which a forward channel transmission rate is higher than a reverse channel transmission rate. However, Odenwalder implicitly discloses for channel allocation of higher transmission rates for the forward link than the reverse link. Thus, it would have been obvious to one of ordinary skilled in the art, at the time of the invention, to include

the channel allocation as taught by Odenwalder in Behtash and Linquist' system since user expected to receiver more than he or she generates.

***Allowable Subject Matter***

5. Claims 24-28, and 32-36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

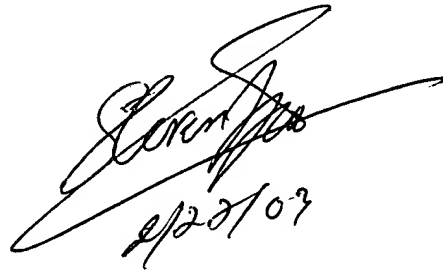
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc T. Duong whose telephone number is 703-605-5146. The examiner can normally be reached on M-Th (8:30 AM-5:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau T. Nguyen can be reached on 703-308-5340. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-9600.

DD  
February 26, 2003

A handwritten signature in cursive script, followed by the date "2/27/03" written in a similar cursive style.